The Ilemi Triangle

Understanding a pastoralist border area

Colophon

PAX
PAX means peace. Together with people in conflict areas and concerned citizens, PAX works to build just and peaceful societies all over the world. PAX brings people together who have the courage to stand for peace. Everyone who believes in peace can contribute. We believe that all these steps, whether small or large, truly matter and will contribute to a just and peaceful world. Our peace building work in conflict areas is based on values of human dignity and solidarity with peace activists and victims of war violence. In our peace work, the protection and security of civilians leads our responses to conflicts.

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Abbreviations

AU	African Union
AUBP	African Union Border Programme
CIDP	County Integrated Development Plan
CPA	Comprehensive Peace Agreement
CSO	Civil society organization
EES	Eastern Equatoria State
GoK	Government of Kenya
GoSS	Government of South Sudan
ICPALD	IGAD Centre for Pastoral Areas and Livestock Development
IGAD	Intergovernmental Authority on Development
ICJ	International Court of Justice
ITC	IGAD Transhumance Certificate
JCC	Joint Community Committee
JCM	Joint Council of Ministers
JDC	Joint Demarcation Committee
JTC	Joint Technical Committee
LAPSSET	Lamu Port, South Sudan, Ethiopia Transport
LGA	Local Governance Act
MoU	Memorandum of Understanding
NGO	Non-governmental organisation
OLS	Operation Lifeline Sudan
PAB	Provisional Administrative Boundary
PPP	Public-Private Partnership
SALW	Small arms and light weapons
SPLM/A	Sudan People's Liberation Movement/Army
SPLM/A-IG	Sudan People's Liberation Movement/Army – in Government
SPLM/A-IO	Sudan People's Liberation Movement/Army – in Opposition
TCG	Turkana County Government

1.Introduction

The Ilemi Triangle is a large dry-land area that is claimed by Kenya and South Sudan. Bordering Kenya and South Sudan, and also Ethiopia, the area is home to different pastoralist communities who share its scarce resources to herd their cattle. On 17 June 2019, the governments of Kenya and South Sudan signed a Memorandum of Understanding (MoU), expressing their intent to delineate and demarcate their common border by 2022. The absence of a clear border, as well as the process of delineation of the common border, affects the populations relying on the area for their livelihoods. With this report, PAX aims to encourage those involved in the demarcation process to consider the voices of the people affected by it.

Britain's colonial legacy left a lack of clarity and contestation around the legal status and location of the exact border between southern Sudan (now South Sudan) and Kenya, which has resulted in the disputed area called the Ilemi Triangle. While the Ilemi Triangle also borders Ethiopia, this country has never made any official claims on it. Historically, South Sudan has the legal advantage because it inherited the area from the colonial era. However, successive Sudanese and, more recently, South Sudanese governments have been mostly absent from the Triangle, due to their long history of multiple civil wars and poorly developed government structures.[1] Meanwhile, for decades Kenya has tacitly governed the area. Since powers were devolved to lower administrative levels in 2010, the Turkana County Government felt itself to be *de facto* responsible for the area. Although both national governments have accepted the status quo for decades, the disputed nature of the area has been a source of confusion and lingering conflict for the people inhabiting the area, who depend on cross-border movements to access services and resources. In recent years, the Triangle's potential oil and renewable energy resources have raised renewed interest in demarcating the border area (Eulenberger 2016; Carr 2017).

The Ilemi Triangle is no exception on the African continent. The aftermath of the colonial era left many borders un-demarcated or contested. In response to this, in 2007 the African Union (AU) started the African Union Border Programme (AUBP) to stimulate the delineation and demarcation of all borders on the continent by 2022, including those that remain contested, with the aim to prevent disputes between neighbouring countries and promote regional integration (AU 2007; AUBP 2014). The South Sudan-Kenya border demarcation process is thus guided by the principles of the AUBP, which means that the sanctity and cohesion of local communities must be ensured. To this end, various committees were to be set up to define the border and sensitize local communities (GoK & GoSS 2019).

1 South Sudan became independent from Sudan in 2011. Previously, the Ilemi Triangle fell under Sudanese territory. Nevertheless, under both administrations the government has been largely absent from the area, as will be shown in this report.

The communities living around the Ilemi Triangle – the Toposa, Turkana, Nyangatom and Daasanach[2] – live in the climate-insecure drylands, relying on (agro-)pastoralism to subsist. In the search for water and pastures for their herds, they depend on cross-border movement, resources and exchange. Moreover, they are interdependent and share resources, especially in times of scarcity (Sagawa 2010a). As such, it might appear that they have no regard for national borders and citizenship. At the same time, these communities have been marginalized by their governments and experience a lack of basic service provision and investment (World Bank 2020). They are, however, still affected by government policies and the absence of clarity on the national border. For example, being subject to three different governments, not all communities enjoy the same access to the resources that the Ilemi Triangle offers (Carr 2017). Moreover, some community members have been mobilized as proxies in the territorial and political ambitions of individuals in their respective governments (Carr 2017). In many ways, the absence of a border reinforces the pastoralist communities' marginality and insecurity, and arguably contributes to instability in the border region.

PAX is committed to ensuring that the voices of the people bordering the Ilemi Triangle are considered in the nascent border demarcation process. This report therefore has three purposes with regards to the border demarcation process:

1. To provide a historical and contemporary account of the dynamics around the Ilemi Triangle

2. To identify pastoralist and community interests

3. To propose how these interests can best be considered in the process of border demarcation.

Methodology and structure

This report is the outcome of a four-month research project by PAX, informed by PAX's decade-long engagement in peace programming in the borderlands (see De Vries & Wunder 2017). The research relies mainly on desk research, in which many academic sources, PAX internal documents, news articles and web content is analyzed. Because it was not possible to visit the area to ensure a more inclusive research process with those communities whose interests it aims to represent, partners of PAX and other individuals in South Sudan and Kenya were interviewed through an online or mobile connection. The report also draws on data gathered for PAX by Immo Eulenberger and Louise Khabure in the Ilemi Triangle between 2016 and 2017. Writing a report on a sensitive topic such as this unavoidably also relies on oral sources and interpretations, in which facts are sometimes disputed and perspectives are affected by the background and position of the narrator. Nevertheless, the report aims for a truthful and balanced account of the situation around the Ilemi Triangle.

2 The Daasanach are also called the Merille, Geleb, or Gabarich, and Daasanach is also spelled Dassanech or Dassanetch. The Nyangatom are also called the Dongiro.

2. From ecosystem to issues of sovereignty

This section discusses the geographical and historical context of the Ilemi Triangle. Geographically, the disputed territory functions as an ecosystem used by several pastoralist communities as a buffer zone. Next, the Ilemi Triangle is discussed from a government perspective through a lens of national sovereign territory. The function of this latter part is not to determine to which country the Ilemi Triangle should belong. Rather, it is to provide context to the current claims and interests of the states involved, as further discussed in Section 4.

2.1 Geographical context: The Ilemi Triangle as pastoralist ecosystem

The Ilemi Triangle is located in the border area of South Sudan, Kenya and Ethiopia (see map on page 9). Depending on its delineation, it encompasses an area of between 10,320 square kilometers and 14,000 square kilometres (Mburu 2003; Winter 2019). Ilemi contains an irregular alternation of semi-detached mountain ranges and plains characterizing either the Ethiopian escarpment or the Sudanese plains (El-Ghaazi 1975). Important water sources include the river Kibish at the eastern border with Ethiopia, the Lotikipi plain, aquifers, and a few permanent springs in and around the highlands. Other surface water disappears quickly after the rainy season, but potable water sources remain available not far underground along river drainage lines (Avery 2014; Nicholas 2018).

The climate is arid and semi-arid, with a mean temperature of 30ºC in the lowland areas. The oscillation between rainy seasons and dry seasons is patterned but highly irregular and unpredictable. Generally, the first rainy season runs from April to July, and the second between October and November (TCG 2018a). The rains turn the lowest parts of the plains into swamps, resulting in an abundance of natural vegetation, crops and livestock (Odote 2016). On the other hand, the dry season – peaking in January, February and September (TCG 2018a) – is extremely hot and water runs scarce. During the dry months, only a small part of the area provides water sources and fodder. The rest of the area consists of sparsely distributed bushes and thorn trees and areas of rocky and sandy soil (Odote 2016; Eulenberger 2016; Nicholas 2018). Despite these broad seasonal patterns, the environment is highly unpredictable and variable in terms of place and time (Stites et al. 2007; Dyer, Omondi & Wantsusi 2008; TCG 2018a). Generally, the east has more rainfall than the west and, because of their elevation, mountain ranges are usually green, covered by dense bushes(TCG 2018a).
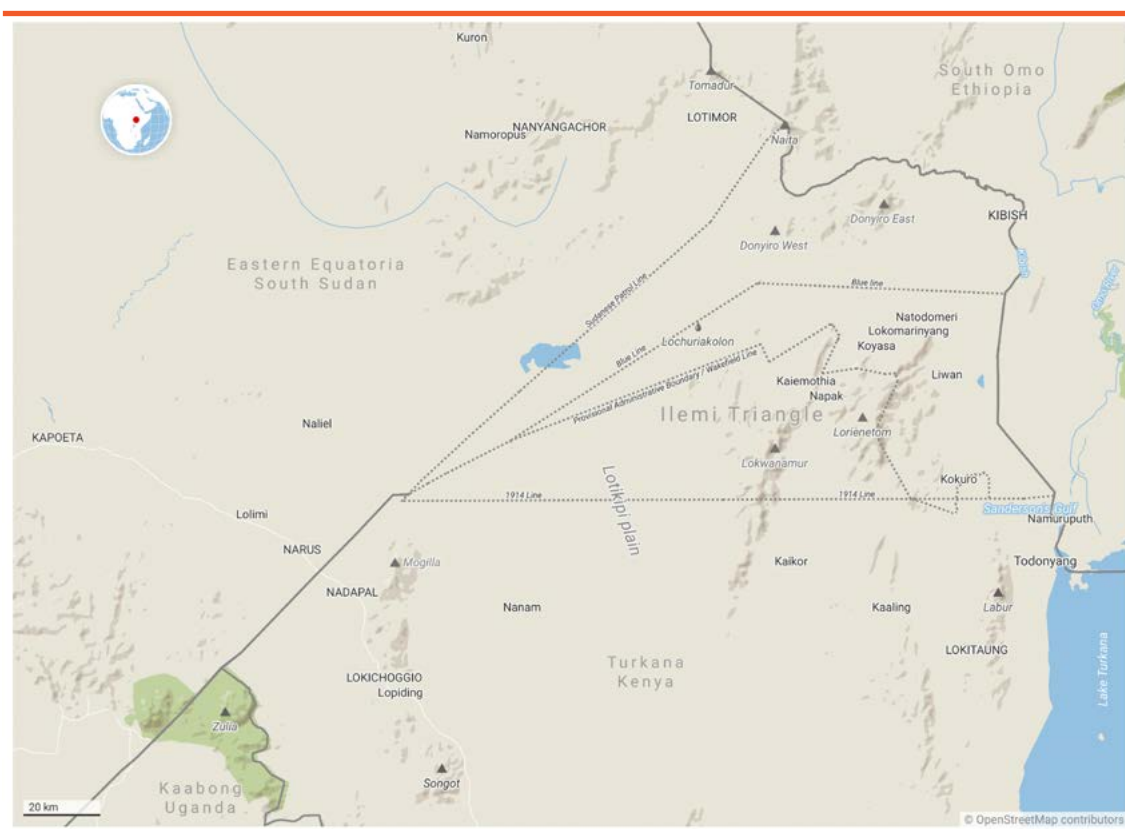
FIGURE 1: Map of the border area of South Sudan, Kenya, and Ethiopia, including the Ilemi Triangle. Sources: OpenStreetMap, licensed under CC BY-SA 2.0 MapCarta, licensed under CC BY-SA 4.0 Created with Datawrapper.de

These geographic characteristics make mobile pastoralism the best suited mode of production —compared with agriculture or more industrial modes of production — because of its flexibility in relation to the micro-environments that result from climatic variability (Dyer, Omondi & Wantsusi 2008; Eulenberger 2019; Nicholas 2018). Grass and thorn trees provide feed for both grazing and browsing animals and the mountains pasture for cattle, while the more open plains are suitable for goats, sheep and camels (Mburu 2003; Winter 2019). Nonetheless, during periods of extreme scarcity, this mode of production is not without risk. In extreme weather periods, the area has seen livestock losses of up to 80 per cent (Eulenberger 2016; Winter 2019). Some consider the dry season a necessary evil, functioning as a natural control on livestock to prevent overgrazing and protect pastures (see Niamir-Fuller et al. 2012).

While pastoralism is the most climate resilient livelihood system for this type of drylands, this so-called non-equilibrium ecosystem (Dyer, Omondi & Wantsusi 2008) remains fragile.[3] Pastures may become degraded if they are overgrazed, but also if they are left unused for a few years. Grazing or browsing animals function as a sort of pruning tool, creating space for plants to reproduce, which is needed to protect the soil from erosion and maintain its capacity to hold water (EU & FAO 2013).

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3 A non-equilibrium or disequilibrium ecosystem refers to an ecosystem that is characterized by unpredictability or stochastic events (Dyer, Omondi & Wantsusi 2008).

The herding and migrating pastoralists thus contribute to maintaining pastures, while also allowing them to recover if exhausted (Mburu n.d.; Dyer, Omondi & Wantsusi 2008).[4] In many ways, through their pastoralist modes of production and related knowledge, pastoralist communities protect and manage vital resources, socialized as they are through pastoralist education, cultural norms and customary rights (Eulenberger 2016; EUTF 2016).

The mobility of the pastoralist communities and the boundaries between them are highly interrelated with climatic factors. The buffer zone between communities is larger during the rainy season, as the abundance of pastures makes it unnecessary to move into the buffer areas. During the dry season, however, pastoralists are forced to graze further afield, into the Ilemi Triangle. With various communities sharing the same remaining resources, boundaries are fluid and porous. State control and enforced national boundaries would interfere with the seasonal movement that is necessary for pastoralist survival (Amutabi 2010; (Eulenberger et al. 2018).[5] Despite the fluid boundaries between pastoralist groups, most communities have developed a national consciousness and identify with their respective countries: the Turkana with Kenya, the Toposa and Western Nyangatom with South Sudan, and the Eastern Nyangatom and Daasanach with Ethiopia (Carr 2017). An account of the national administration of the pastoralist communities is discussed more extensively below.

2.2 Historical context: The demarcation of a border

THE COLONIAL ERA

European imperialism brought the modern state system to the African continent (Adebajo 2010; AUBP 2014). This introduced the concept of Westphalian sovereignty, binding absolute political authority to the fixed territory of a state, rather than the more fluid and diverse political orders that were traditional on the African continent (see Crummey 2003; AUBP 2014; Pella 2015; Bauder & Mueller 2021, and more). The imperial borders were mostly drawn arbitrarily, often breaking up cultural groups and pre-existing political units. Moreover, many borders were inadequately or incompletely delimited and demarcated, or not at all (AUBP 2014).[6] This was also the case with the Sudan-Kenya border. Although Sudan, Kenya and Uganda were all part of the British Empire, they were governed separately.[7] The Abyssinian empire, Ethiopia today, remained independent, except for a brief Italian occupation between 1935/36 and 1941 (El-Ghaazi 1975; Winter 2019).

The British Empire started demarking its agreed external border with Ethiopia in 1907,[8] to prevent expansion into territory it had already claimed (El-Ghaazi 1975; Mburu 2003; Kibon 2019). Following

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4 Livestock is complemented in the Ilemi Triangle by wildlife, such as gazelles, oryx and kudus. Wildlife generally adds to the ecosystem in various ways: 1) as an additional food source; 2) as fertilizer for vegetation; 3) consumption of grass; 4) prevention of invasion of grassland by other vegetation (Ogutu 2021).

5 This is illustrated in the case of Abyei, where pastoralists were forced to assume the logic of the state and claimed exclusive sovereignty over an area they previously had only secondary rights to, at the expense of the Ngok Dinka. This undermined previous patterns of co-existence (Craze 2013).

6 Border delineation refers to "the precise description and explanation of a demarcated boundary in detail" (GoK & GoSS, 2). Border demarcation refers to the "process of physically marking of a boundary on the ground using pillars and production of the boundary maps thereafter" (GoK & GoSS 2019, 2). Border delimitation refers to the "legal description of a boundary in a text or map" (GoK & GoSS 2019, 2).

7 Uganda was a British protectorate from 1894; Kenya was a British protectorate from 1895, known as British East Africa, and a British colony from 1920, known as Kenya Colony; and Sudan was ruled by the Anglo-Egyptian Condominium from1899. Turkana Province was formerly part of Uganda, under the name of Rudolph Province. It was transferred to Kenya in 1926.

8 The border between Ethiopia and the various British territories were delimited in three separate processes. Only the southern part of the three, surveyed by Mr Archibald Butler and Captain Philip Maud in 1902-03, touches the Ilemi Triangle (El-Ghaazi 1975).

this, the internal borders were rectified from 1913 onwards. Captain Kelly from Sudan and Captain Tufnell from Uganda were tasked to draw the border from Nimule to Lake Rudolph, the earlier name for Lake Tukana. Their key considerations were to identify the grazing grounds of the Turkana; to ensure Sudanese access to Lake Rudolph; and to ensure that communities on the ground were not separated by a border. The mission went as far eastwards as Mount Mogilla, where it was cut off due to unfavourable conditions and a lack of resources. Captain Kelly solved this by imagining a "theoretical line" between Mount Mogilla and the shore of Sandersons Gulf, with flexibility towards small adjustments in relation to pastoralist grazing grounds. This latter point provided the basis for alterations and confusion around the boundary in the period that followed, as shown in this section. Despite efforts to accommodate the needs of the communities, a straight line was codified in 1914, which is currently still the only ratified boundary between South Sudan and Kenya (El-Ghaazi 1975; Collins 2004; Eulenberger 2013; Waithaka 2018; Lopuke 2019; Winter 2019).

The 1914 Line disregarded the reality on the ground, which was that the Turkana habitually traversed into what had become Sudanese territory as part of their grazing route (El-Ghaazi 1975; Winter 2019). On the Sudanese side, the disarmed Turkana were left unprotected,[9] while Sudan had not yet started governing the Toposa-land (El-Ghaazi 1975). The Turkana's vulnerability on Sudanese soil made the Kenyan and Ugandan governments try to persuade Sudan to either take control over the area or cede it. In 1927/28, Sudan finally established a meagre administrative post in Kapoeta, while the area to the east remained unadministered. After the massive Toposa raid on the Turkana in 1927, Kenya established a post in Lokitaung in 1928 and later extended it further into the Triangle to protect its Turkana (El-Ghaazi 1975). Crucially, this happened with consent and financial compensation from Sudan, setting a precedent for more recent history.

To accommodate Kenya's presence in the Ilemi Triangle[10] and protection of the Turkana, various informal lines were drawn and negotiated in the decades leading up to independence: The first was the 1931 "Red Line" or "Glenday Line". Just a few months later, the informal agreement was updated by including pastures and waterholes, which came to be known as the "Green Line" (Lopuke 2019; Winter 2019). In 1938, a new line was negotiated around the potential exchange of the Ethiopian Baro Salient for the Ilemi Triangle. Sudan and Ethiopia had already been attempting this exchange since 1913, but the urgency for Sudan to reconsider it arose only when Italy invaded Ethiopia in 1935/36 and started to claim the Ilemi Triangle (El-Ghaazi 1975; Winter 2019).

While the border between South Sudan and Ethiopia mostly follows the natural boundary between the Ethiopian escarpment and the Sudanese plains, Ilemi's natural boundaries are harder to define. Instead of a sharp decline in hills as elsewhere along the border, Ilemi contains an irregular alternation of semi-detached mountain ranges and plains characterizing either the Ethiopian escarpment or the Sudanese plains (El-Ghaazi 1975).

9 The Turkana were the only community fighting the British occupation and were, as a result, disarmed in 1918, resulting in a military inequality between the communities. This made the Turkana vulnerable to raids from the other communities (Collins 1961; Lamphear 1992).

10 The border between South Sudan and Ethiopia mostly follows the natural boundary between the Ethiopian escarpment and the Sudanese plains. There are two exceptions to this. The first is the Baro Salient, which is a salient of Sudanese plain included in the borders of Ethiopia, where the border followed the natural boundary made up of the Baro, Pibor and Akobo rivers. The second is the Boma and Tirma plateau, north of the Ilemi Triangle, which can be seen as part of the Ethiopian highlands. As well as ignoring natural boundaries, these two areas also cut through ethnic boundaries. The Baro Salient separates the Nilotic Nuer and Anuak tribes and (partly) cuts them off from Sudan. Much negotiation has taken place over correcting these border areas (El-Ghaazi 1975).

Kenya demanded a boundary adjustment to prevent Turkana grazing grounds being ceded to Italian East Africa (Lopuke 2019). As a result, the informal Red Line was readjusted by a joint commission into what came to be known as the Wakefield Line. Importantly, this Line was the first boundary in the Ilemi Triangle to be the result of a survey, accurately marked and based on the realities on the ground at the time. Just like the earlier Red and Green Lines, however, the Wakefield line was never formalized as the official boundary between Kenya and Sudan as the Baro-Ilemi exchange was cut short by the outbreak of the Second World War (Mburu 2003; Collins 2004; Lopuke 2019; Winter 2019). Instead, it came to function as the Provisional Administrative Boundary (PAB) (Winter 2019).

The Second World War heightened tensions between the pastoralist communities. The European imperial powers settled their differences on the African continent by using the pastoralist communities as proxy forces. The Nyangatom and Daasanach communities were being armed to fight on the Italian side, while the Turkana joined the King's African Rifles (KARs)[11] on the British side, resulting in deadly attacks on both sides. The aftermath of WWII resulted in yet another informal line, the "Blue Line", being drawn in 1947, which allowed a Kenyan police presence in the Ilemi Triangle (Collins 2004; Lopuke 2019; Winter 2019). By 1947, Kenya had 400 police officers in the area divided over seven police posts (Almagor 1974; Odote 2016; Winter 2019).[12] Kenya's heavy police presence allowed the Kenyan authorities to implement exclusionary policies, excluding other pastoralist communities from accessing the buffer zone.[13] An important example is the 1942 policy that turned the Ilemi Appendix – the strip of land roughly between the Wakefield Line, the Blue Line and the Ethiopian border (Almagor 1974; Eulenberger, interview, 2021) – into a "no-man's-land". The Turkana, Daasanach and Nyangatom were all expelled from these grazing lands to avoid any further clashes (Almagor 1974; Carr 2017). This policy effectively split the Nyangatom in half, with the Western Nyangatom living northwest of the policed Ilemi Appendix and the Eastern Nyangatom being pushed between the Kibish and Omo Rivers, together with the Daasanach (Carr 2017).

To prevent the Kenyan administration expanding even further into Sudanese territory, Sudan marked its own "Patrol Line" in 1950. This line was to keep Kenyan and Ethiopian pastoralist communities from moving further west into Sudan while, at the same time, renouncing efforts to police and develop east of the line. This did not affect Sudan's sovereignty over the Triangle, as it is argued that Kenyan administration was allowed on condition that it abided by and implemented the Sudanese legal system (Lopuke 2019). Nevertheless, the Sudanese patrol line marks the extent of Kenya's claim over the territory today (Eulenberger, forthcoming).

While most of these six lines never achieved official status, they clearly demonstrate how the colonial administrations of Kenya and Sudan struggled with governing the area in a way that took into account the interests of the communities inhabiting the area. Independence did not fundamentally change this situation.

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11 A multi-battalion British colonial force, drawn from native inhabitants and the British Army (Page 2011).

12 There were police posts in Kokuro, Liwan, Lokomarinyang, Koyasa, Namoruputh, Kaiemothia and Kibish.

13 An important earlier example is the 1942 policy that turned the Ilemi Appendix – the strip of land roughly between the Wakefield Line, the Blue Line and the Ethiopian border (Almagor 1974; Eulenberger, interview, 2021) – into a "no-man's-land". The Turkana, Daasanach and Nyangatom were all expelled to avoid any further clashes (Almagor 1974; Carr 2017). This policy effectively split the Nyangatom in half, with the Western Nyangatom living northwest of the policed Ilemi Appendix and the Eastern Nyangatom being pushed between the Kibish and Omo Rivers, together with the Daasanach (Carr 2017).

DECOLONIZATION AND THE PRESENCE OF KENYA AND (SOUTH) SUDAN UNTIL NOW

With the decolonization of Africa, borders again became an issue. As determined by the 1964 Cairo Summit, African borders were to be demarcated according to their status on the day of independence, crystallizing colonial borders (Touval 1967). However, as discussed previously, the colonial border between Kenya and Sudan was contested and, as a result, remained an issue during post-colonial times.

The first decades after independence saw relative inactivity around the Ilemi Triangle. Although Sudan inherited the 1914 Line as its international boundary when it became independent in 1956, the government in Khartoum was mostly busy with skirmishes and the Anyanya civil war in other parts of the south (Winter 2019). This civil war barely touched the Ilemi Triangle, apart from the building of a few army posts (Eulenberger 2010; Kumsa 2017; Winter 2019). In the meantime, in 1963 Khartoum had deferred administration of Ilemi, and neither did the Anyanya movement offer any form of administration to the area (Eulenberger 2010; Winter 2019). In 1972, the Addis Ababa peace agreement between the Anyanya movement and the Khartoum government granted relative regional autonomy to the South (Schomerus, De Vries & Vaughan 2013), which included responsibility for the Ilemi Triangle. According to Winter (2019), the Governor of Sudan's Equatoria State at that time, Peter Cirillo, intended to bring administration and development to the Ilemi Triangle but never got the chance because in 1983 another civil war started in Sudan. Kenya, independent since 1963, also had other priorities, such as the 1963–1967 secessionist Shifta war (Mburu 2003). Nevertheless, Kenya attempted to claim the Provisional Administrative Boundary as the official border with Sudan from 1965 onwards by urging the United Kingdom to display the PAB on its maps, which the latter refused (El-Ghaazi 1975; Winter 2019). Moreover, Kenya maintained the colonial "buffer zone" policy, excluding the Nyangatom, Daasanach and Turkana from the Ilemi Appendix (Carr 2017).

The dynamics around Ilemi changed with the 1978 Kenyan presidency of Daniel Arap Moi and the start of the 1983 Second Sudanese Civil War (Waithaka & Maluki 2016). In this period, John Garang, leader of the Sudan People's Liberation Movement/Army (SPLM/A) of the South, was rumoured to have made an informal deal with Moi, ceding the entire Ilemi Triangle to Kenya in exchange for logistical and military support to the SPLM/A (Waithaka 2018). This theory was never officially confirmed as Garang died in a plane crash in 2005, and Moi never spoke of it in public (Winter 2019). Nevertheless, it has strong legitimacy in Kenya today and reflects the events on the ground (interview, 2021).

From the late 1970s onwards, Kenya expanded its presence in the Triangle. For instance, the Kenyan government started to encourage the Turkana to resettle inside the disputed Ilemi Triangle (Carr 2017). Moreover, it unilaterally claimed the PAB as the official boundary from 1978 onwards and, in 1986, started circulating a new map illustrating this claim. Supposedly, the Government of Kenya also sent a note to the Government of Sudan in 1988 claiming the Triangle to be part of Kenya, which Sudan refused to accept. Moreover, in 1988, Kenya transformed its police post in Kibish into the centre of the new division of Turkana District, establishing a district officer, a General Service Unit, administrative police, and a health centre (Winter 2019).[14]

14 This agreement laid out a roadmap for southern autonomy in six years, working towards a 2011 referendum on South Sudanese independence. As part of the CPA, the central government in Khartoum was also shared with the South (Schomerus, De Vries & Vaughan 2013). Moreover, the CPA maintained that South Sudan would inherit the state of the southern borders as they were on the day of Sudanese independence (Winter 2019).

Indeed, throughout the 1983–2005 war in Sudan, Kenya functioned as a supply hub and safe haven for the SPLA leadership (Eulenberger 2016). Many key SPLM/A camps were established and sustained by Kenya along the border, including the rebels' headquarters in Torit, a garrison in Lotimor and a camp in Koyasa. Kenya also supported the SPLM/A to establish an immigration and customs centre in Nadapal in 2002 (Eulenberger 2016; Winter 2019). Moreover, since 1992, Kenya has provided economic and diplomatic support for thousands of South Sudanese refugees through Kakuma refugee camp and hosted the diplomatic and peace meetings between the Government of Sudan and the SPLM/A (Winter 2019). Lastly, from 1989–2005, Kenya provided the base for Operation Lifeline Sudan (OLS) in Lokichoggio, a humanitarian aid action set up by United Nations agencies and NGOs to assist civilians in need (Eulenberger 2010; Winter 2019). Partly due to the efforts of the Catholic church, various rural centers developed in and around the Ilemi Triangle: Narus, Nanyangachor, Namoropus, Lotimor and Kuron. After the Comprehensive Peace Agreement (CPA) brought an end to the war in southern Sudan in 2005, the region became neglected by the authorities (Winter 2019).

At the start of the 21st century, the South Sudan-Kenya border remained a bilateral balancing act, as illustrated by some prominent examples. For instance, in 2009, a conflict erupted around Nadapal when Kenya tried to move its border from Lokichoggio closer to Nadapal. This resulted in an incident between two Kenyan government officials and SPLA soldiers, followed by violence between the Toposa, Turkana and Kenyan military (Eulenberger 2013; interview, 2021). This led to a joint border meeting, during which the intention was stated to establish a joint technical team to demarcate the border (Winter 2019). In 2012, the issue of Ilemi flared up in the news when the government of South Sudan allegedly made a case against Kenya at the International Court of Justice (ICJ) and with the AU over Ilemi. Kenya's minister of Foreign Affairs denounced the South Sudanese government, stating that Kenya would defend its territory, whereas the South Sudanese ambassador denied that any claim had been made at the ICJ (Winter 2019). South Sudan renewed its claim on Ilemi in 2015, possibly to please the Toposa leadership (Eulenberger et al. 2018), as will be elaborated upon in section 4.2.

In the meantime, Kenya continued to expand its administration. In 2010, it adopted a new constitution including a system of devolution, in which the executive and legislative branches of government were decentralized to County governments with the aim of better representing the people and sharing resources (Kramon & Posner 2011). For Turkana County, this included a sharp increase in financial means (Schilling et al. 2012). Both of Turkana County's Integrated Development Plans (2013–2017, TCG 2013; and 2018–2022, TCG 2018b) included Kibish as a sub-county, covering all of the Ilemi Triangle. Since the devolved Turkana County Government has been active, the administration has expanded to include two new divisions, and roads and dispensaries have been constructed (TCG 2013; TCG 2018a; TCG 2018b). Plans for continued investment and development are laid out for 2022, including the allocation and allotment of land, the construction and maintenance of roads, the construction of sub-county headquarters, the provision of basic services, and more (TCG 2018b).

Whereas Kenya has been engaged in an intense process of devolution, South Sudan has not. The 2005 Comprehensive Peace Agreement (CPA) and 2009 Local Government Act (LGA) laid the foundations for a democratic, decentralized system of local government organized around Counties that are subdivided into Payams and Bomas (GoSS 2009; Idris 2017). Nonetheless, the GoSS has mainly recentralized around a strong executive model of government, leaving local governments largely ineffective. The shift from 10 states to 28 in 2015, to 32 in 2017, and back to 10 in 2020, was a major driver of political power play and violence. During these shifts, the Ilemi Triangle went from belonging to Eastern Equatoria State to Namorunyang / Kapoeta State and back to Eastern Equatoria State in 2020. This shift did not affect the Toposa that much, because day-to-day administration remained absent as ever.

Today, Eastern Equatoria State is subdivided into eight counties, of which Kapoeta East County is the easternmost. Lotimor is the easternmost Payam, bordering the Ilemi Triangle and Ethiopia, which also means that no Payam or Boma is established further into the Triangle (BCSSAC, SSPRC & UNDP 2012; Winter 2019). In 2015, Lotimor Payam consisted of a handful of police officers and a barely established local government with poor connections to the Kapoeta administration (Winter 2019).

Since South Sudan gained independence in July 2011, the Government of South Sudan has been involved in fighting a new civil war, which started in December 2013 and involved various senior leaders of the liberation movement. In the first few years, the three Equatorial states remained relatively safe, with only isolated incidents of local conflict. However, in 2016 fighting moved to the Equatorias (Boswell 2021). The war also affected communities in the Ilemi Triangle, especially in terms of food insecurity and displacement (World Bank 2020). Additionally, militia activity has been reported from Toposa and Nyangatom areas, with SPLA-IO bases stationed at the northern fringe of the Ilemi Triangle (Eulenberger et al. 2018; Eulenberger, interview, 2021). It is unlikely that the turmoil in South Sudan is over, which will continue to have an impact on government's priorities. Meanwhile, the direct and indirect effects of simmering conflicts, administrative confusion and general absence of services continues to pose a challenge to the communities in the Ilemi Triangle. And while South Sudan indeed may have the strongest legal claim on the Ilemi Triangle, it is clear that Kenya has been more involved in administering the area since well before its independence. (Kibon 2019; Winter 2019). It is in this context that the border demarcation process is situated.

THE PROCESS OF BORDER DEMARCATION AND THE AFRICAN UNION BORDER PROGRAM

On 17 June 2019, the governments of South Sudan and Kenya signed a Memorandum of Understanding (MoU) in which they agreed to start the process of border delimitation and demarcation (GoK & GoSS 2019 – see also Annex 1). The MoU was initiated by the African Union Border Programme (AUBP). Established in 2007, the African Union developed the AUBP to support and facilitate the delimitation and demarcation of the continent's borders (AUBP 2014, 9). Importantly, the AUBP is guided by the principle of respect for borders existing at the time of national independence, as decided upon by the 1964 Cairo Summit (AU 2007). Initially, the aim was for all borders to be delimited and demarcated by 2012, but this goal was postponed to 2017 and later to 2022 (AUBP 2014; AU 2016). While the AUBP is coordinated and implemented by the Commission of the African Union (AU 2007), its member states are primarily responsible for facilitating the process of delimitation and demarcation, including the mobilization of necessary resources (AU 2007; GoK & GoSS 2019). In addition, the continent's regional economic communities and the AU may assist. Member states may seek further assistance from the AUBP for facilitation, capacity building, and training and research in relation to the negotiation process (GoK & GoSS 2019).

In line with the objectives of the AUBP, the overall goal of the border demarcation between South Sudan and Kenya is the structural prevention of conflicts and the promotion of regional and continental integration. Secondly, it is to promote cross-border cooperation and activities, infrastructural development, and peaceful coexistence between the border communities (Gitonga 2019a). The MoU further acknowledges the AUBP principle of maintaining the sanctity and cohesion of communities and the fostering of peaceful co-existence between neighbours, and the principle of negotiated settlement (GoK & GoSS 2019). To execute the border demarcation process, the MoU signed by South Sudan and Kenya established four joint committees (GoK & GoSS 2019):

1)   The Joint Council of Ministers (JCM), which is the highest-level political committee, and includes state representatives responsible for international boundaries who are tasked with drawing up policies and overseeing and managing the process.

2)   The Joint Technical Committee (JTC) that supports the JCM by undertaking and
        managing the conduct of the delimitation and demarcation process. The JTC is
        sub-divided into two teams:

        a.   the Joint Demarcation Committee (JDC), tasked with demarcating the border,
                including (the management of) the erection of boundary pillars on the ground and
                the preparation of boundary maps.

        b.   the Joint Community Committee (JCC), tasked with the sensitization of
                communities (GoK & GoSS 2019). The JCC is made up of community members
                on both sides of the border (interview, 2021). Turkana County and Kapoeta State
                leaders also committed to the process of community sensitization when they
                endorsed the MoU in July 2019 (TCG 2019).

The process of determining the South Sudan-Kenya boundary is laid out as follows in the MoU: It commenced with the signing of the MoU, and is followed by the delimitation, then the demarcation, and then the delineation of the boundary, finishing with the signing and ratifying of the boundary. After the completion of the boundary demarcation process, the states are to maintain and manage the border and safeguard joint bilateral or regional projects. Community sensitization, although not specified in the MoU, is to be finished before the start of the demarcation phase, as stated by a government official (Abale 2019; *Radio Tamazuj* 2019). Community sensitization is supposed to: secure the support of local communities for the objectives of the MoU and inform them about the process of border demarcation, the purpose of international borders, the roles of the different actors, and the responsibility of the governments. Moreover, the purpose is to consult the communities about their common heritage and traditional rights and on any other issues they might have. Lastly, peaceful co-existence is to be promoted (Wamochi 2019; various interviews, 2021). As such, the community sensitization can be said to be a combination of information and consultation, as further expanded upon in Textbox 1.

The actual status of the border demarcation process remains unclear and obscure, with mixed messages being reported. Community sensitization committees set up on both sides of the border are responsible for raising awareness among their own communities, often supported by local politicians, elites and local organizations (interview, 2021). On the South Sudanese side, the national NGO Innovative Development Initiative (IDI) has been working jointly with the government to conduct the community sensitization, while on the Kenyan side, national NGO SAPCONE has been responsible (interview, 2021). In 2019, meetings reportedly took place in Lopiding, Nanam, Nasinyeno, Napak and Kibish in Kenya and in Narus, Naliel, Napwatasigiria, Nanyangachor, Lotimor and Nakuwa in South Sudan (Wamochi 2019). However, a Kapoeta government official reported a lack of funds as the reason for community sensitization not being finalized (Wamochi 2019; *Radio Tamazuj* 2019). Over the course of 2020 and 2021, more community sensitization is said to have taken place. One interviewee stated that on the South Sudanese side, the main focus had been on the rural areas and that the elites in the urban centres had to be included before the process could be finalized definitively. They have told the communities to co-exist and have emphasized human rights, natural resource sharing and conflict prevention (interview, 2021). However, people have only a limited awareness of the implications of the border demarcation process, especially in the rural areas. Even less so have they been asked what their opinion is. One reason may be a lack of funding, which constrains the logistics of community sensitization (interview, 2021). On the Kenyan side, one interviewee mentioned that two-sided meetings had taken place, and that people were happy about the meetings (interview, 2021).

Although multiple actors stated that the community sensitization is not finished, meetings about the delineation and demarcation of the border were reported to have taken place or be planned. In terms of demarcation, a meeting was held in Mombasa in December 2020 to establish a roadmap for demarcation of the border, in terms of the erection of the pillars and the resources needed. Funding is again mentioned as an obstacle (interview, 2021). Moreover, technical personnel have been trained for the demarcation (interview, 2021). In terms of delineation, the process of determining the tri-junction border point of Uganda, Kenya and South Sudan was kicked off by a meeting in Mombasa in December 2021. This is to be followed by a meeting with Ethiopia about their tri-junction border point. Eastern Equatoria State governor Louis Lobong Lojore has called upon the border officials to respect the 1964 Cairo Summit, showing South Sudan's intention to delineate according to the 1914 Line (Gitonga 2019a).

Overall, there has been progress in the demarcation of the South Sudan-Kenya border. However, the lack of coordination, regularity and funding has affected community participation (interview, 2021). As a result, consultation with the population has been limited or absent and, in some cases, even information about the process was not shared (see Textbox 1 for an overview of the steps for community participation). Meanwhile, the process of delineation and demarcation seems to be ongoing, without government officials being fully aware of the communities' opinions (interview, 2021). In the next section, the report addresses some community interests in relation to the Ilemi Triangle.

Textbox 1 : Community participation in government decision-making

There are different levels of community participation in government decision making, as laid out in the *ladder of citizen participation and community engagement* (Lodewijckx 2021):

1. **Information** refers to the provision of up-to-date, transparent and relevant information by a government to its constituents.

2. **Consultation** refers to the gathering of community feedback, ideas, opinions, decisions or plans.

3. **Involvement** refers to the active engagement of community members to make an impact on local decision making, establishing a two-directional flow of communication.

4. **Co-creation** refers to the (almost) equal sharing of decision-making powers between local governments and community members.

Involvement of populations in decision-making processes that affect their lives is not only a humanitarian consideration, but also a human right. Following the 1948 Universal Declaration on Human Rights, participation means that people should be involved in decision making and the management of their own lives (Beazley & Ennew 2006). Following the ladder of participation as laid out above, at a minimum this means involvement. This model can also be applied to the South Sudan-Kenya border demarcation process.

3. Community interests in the Ilemi Triangle

The shared general characteristics, socio-economic and socio-political organization shared by the four pastoralist communities in the border area of South Sudan, Kenya and Ethiopia, are discussed in this section. As will become clear, the disputed area of the Ilemi Triangle plays important roles in their modes of subsistence. Understanding these modes of subsistence goes hand-in-hand with forms of socio-political organization, customary rights and security mechanisms, which are essential elements to be considered in the border demarcation process.

3.1 Socio-economic interests in the Ilemi Triangle

The livelihoods of the pastoralist communities — the Toposa, Nyangatom, Turkana and Daasanach)[15] — in the South Sudan-Kenya-Ethiopia borderlands revolve around water and pastures, inter-ethnic trade and cattle raids. The Ilemi Triangle functions as an important zone for all these activities.

AGRO-PASTORALISM

The communities around the Ilemi Triangle engage in a mixed economy of pastoralism and agriculture, with animal husbandry as the main pillar of their livelihood strategy. This is a production system that sustains human life through the meat, milk, blood, urine and dung produced by browsing and grazing cattle, sheep, goats, donkeys and camels (Nicholas 2018). To cope with the harsh conditions, pastoralists rely on flexibility in strategy and location, e.g., through selective grazing and browsing patterns and flexible herd management practices (*ibid*). In addition to pastoralism, where the soil is fertile enough, communities also engage in cultivation following rainfall or river floods. As the southwestern parts of the Ilemi Triangle are drier, the Turkana, Toposa and Western Nyangatom remain largely pastoral, complemented by some sorghum production (Gulliver 1952; Müller-Dempf 2015), while the Eastern Nyangatom rely more on agro-pastoralism or agriculture due to river flooding (Carr

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15 The Turkana, Nyangatom and Toposa communities belong to the Ateker cluster, who are of Eastern Nilotic descent. They share their heritage, language, belief system and cultural values and practices (Mburu n.d.; Gullivan 1952; Gebre 2016). The Daasanach are of Cushitic descent, thus differing linguistically and customarily from the Ateker cluster (Mburu n.d.). Nevertheless, all four communities have livelihood strategies based on a combination of animal husbandry, cultivation, trade and cattle raiding. Moreover, all communities are organized along territorial sections and generation-sets. As such, these elements of socio-economic and socio-political organization will be discussed together here.

2017). Having been pushed into the Omo Valley, the Ethiopian Daasanach have been forced to adapt from a pastoralist-based strategy to one that includes fishing and flood recession agriculture (Mburu n.d.; Carr 2017). The Nyangatom and Daasanach cultivate crops such as sorghum, maize and beans (Mburu n.d.; Gebre 2012).

This mixed economy is organized in a dual system of *manyattas*, semi-permanent home areas where cultivation takes place, and *kraals*, temporary mobile cattle camps where livestock is herded.[16]

Through regular exchange and migration, this system mitigates vulnerability (Dyer, Omondi & Wantsusi 2008). In the dry season, pastoralists migrate further from the home areas in search of remaining pastures. The Ilemi Triangle provides pasture in the dry season, (Carr 2017) especially because its grasslands are considered superior to nearly all those surrounding it. This is partly the result of the expulsion policies that have caused overgrazing in areas outside the Triangle (*ibid.*). Water sources in Ilemi are an additional interest. For instance, the area around the Kibish River at the border between Ethiopia and Ilemi is an important source of water for the Daasanach, Turkana and Nyangatom tribes. The Turkana and Daasanach are also dependent on water from Lake Turkana (Carr 2017; Erot 2021). Due to population pressures and continued government expropriation, it is expected that the Triangle's resources will become even more important to the pastoralist communities (Carr 2017).

MARKETS

A second pillar of the socio-economy of the pastoralist communities is trade in livestock products and forest items in exchange for additional cereals, goods or cash (Sagawa 2010a; Gebeyehu et al. 2021). Although trade often takes place on an informal and local level (interview, 2021), it is connected to broader market networks through primary, secondary and tertiary traders (Matete & Shumba 2015). As such, the pastoralists have become integrated in the money economy, which allows people to buy goods such as clothes and motorbikes, or to pay for school fees (Sagawa 2010a; Müller-Dempf 2015; interview, 2021). Trade inside the Ilemi Triangle often takes place on a pragmatic basis, due to a lack of formal markets (interview, 2021). These informal trade networks cross national borders. For instance, South Sudanese Toposa trek their animals to border markets in Ethiopia, or to Lokichoggio via Narus in Kenya (Catley 2018; Cullis 2021). Cross-border markets are often closer and easier to access than domestic markets, and some products are easier to get on the other side of the border. For example, the Ethiopian Nyangatom who live across the border from Kibish, buy cell phones or utensils for their homes in Kenya because they are harder to find in Ethiopia (interview, 2021). Research among the Turkana shows that, due to high security risks and the high costs of travelling long distances, they prefer local markets (Matete & Shumba 2015).

LIVESTOCK RAIDING

Livestock raiding is another, more contentious, way of coping with droughts, cattle diseases, famine and other calamities. Socio-economically speaking, livestock raiding has a dual purpose.[17] The first is to capture livestock to replace lost stock and to maximize herd sizes for community survival. The second is to access natural resources, as raiding is sometimes used to claim grazing land through the pushing back of other communities, or even by depopulating the area, with the aim of acquiring additional

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16 The terms kraal and manyatta are not local terms but widely used in English to refer to the settlements of the Karamojong cluster (Dyer, Omondi & Wantsusi 2008).

17 As well as these socio-economic purposes, cattle raiding also has an important cultural meaning as it is a rite of passage for young men and a way to secure marriage and bride wealth (De Vries & Wunder 2017).

Figure 2: Ilemi triangle border area with Ethiopia. Lightly grazed Ilemi grasslands on relict beach ridge to the left; heavily grazed area with pastoral villages (present and abandoned) to the right. Image by Carr (2017, 83), licensed under CC BY 4.0.

pastures (De Vries & Wunder 2017; Nicholas 2018). Cattle raiding has long been considered a culturally accepted enterprise between pastoralist tribes, and a legitimate way of acquiring wealth (Amutabi 2010; De Vries & Wunder 2017; Nicholas 2018). Community elders developed local ethical standards under which these raids took place and only traditional weapons — such as spears, bows and arrows— were used (Nicholas 2018). Since the 1970–80s and the circulation of weapons due to the civil wars in Sudan, however, the violence around cattle raiding has escalated. This has resulted in deadly cattle raids and a culture of banditry in which raiding has become an end in and of itself. Increasingly, raiding has been motivated by self-acquisition rather than communal interests. The control of elders through the generation-set system has also weakened and armed kraal leaders have gained influence (Rugadya 2006; De Vries & Wunder 2017; Nicholas 2018).

Given the area's harsh climatic conditions, food insecurity is still a reality among the pastoralist communities. Population growth and climate change continue to increase pressure on livelihood systems that cannot sustain the entire population (Müller-Dempf 2015; Carr 2017; Eulenberger 2019). This has led to a dependence on food aid from the international community (Gebre 2012; Carr 2017; Gebeyehu et al. 2021; Gitonga 2021), with no meaningful effort from the governments to do something about this (Eulenberger, interview, 2021).

3.2 Socio-political dynamics

The pastoralist societies have various mechanisms through which they structure their political decision making, customary law and conflict resolution. These socio-political dynamics are important to consider in terms of including the populations in the border demarcation process.

TRADITIONAL POLITICAL ORGANIZATION

The pastoralist communities are divided into so-called 'territorial sections', which function as societal and political units. The Turkana, Nyangatom and Toposa have territorial sections in and on the border of the Ilemi Triangle.[18]

Within these sections, the communities are organized politically through generation sets (Müller-Dempf 2017).[19] The generation-set system is a system that organizes power along the principle of seniority, where the senior generation set holds decision-making power over the territorial section (Gebre 2016). In terms of governance, power is performed through two types of assembly: a more formal one, the *akiriket* the territorial highest authority – or *arra* to the Daasanach (Gebre 2012) – and a more informal one: the *ekokwa*. The *akiriket* handles ritual matters, such as initiation, as well as diplomatic matters, such as peace negotiations, dealing with crises, inter-ethnic grazing rights, and raids (*Sudan Open Archive* n.d.; Stites et al. 2007; Carlson et al. 2012). The more informal *ekokwa* takes care of everyday management, including grazing routes and issues raised by the community (Stites et al. 2007). The junior generation set often holds authority in the kraals, where they are responsible for the herds (Stites et al. 2007; De Vries & Wunder 2017).

JUDICIAL ORGANIZATION AND CUSTOMARY RIGHTS

The *akiriket* also functions as a judicial mechanism and supreme court, on which customary rights are based. Generally speaking, territorial sections share resources and organize usage rights and customary access (Gebre 2016; Eulenberger et al. 2018). At the local level, families may have exclusive rights to plots of land where they put their homes, to certain areas of vegetation, to certain wells and to land where women have their gardens (Eulenberger, interview, 2021). Moreover, territorial sections have gained relatively strong and exclusive customary rights and sectional dominance over certain pastures due to repetitive use (Rugadya 2006; Eulenberger, interview, 2021).[20] However, this exclusivity is relative in the sense that other sections or tribes can request temporary access rights from elders (Dyer, Omondi, Wantsusi 2008; Eulenberger, interview, 2021). Such conditional access is allowed only when there is peace between the communities. While groups have certain rights to their migration routes, seasonal migration is also often based on opportunity as climatic conditions and individual preferences change (Gulliver 1952; Rugadya 2006). Certain areas function as an informal boundary, a buffer zone in which no group has customary rights. In the case of Ilemi, this zone roughly follows the Blue Line (Eulenberger, interview, 2021). While this area can be accessed without permission, it

18 Of the Turkana, the NgiSiger can mostly be found between Liwan and the shore of Lake Turkana, whereas the NgiKwatèla live along the northern borders between Kibish and Songot. The Western Kwatèla centre around the Mogilla range and Lokichoggio, the Eastern Kwatela, are sub-divided into Lokwanamor-Kwatela and Lorienetom-Kwatela (or Kádu-Kwatela). The NgiYapakúno are usually found further south but are also scattered among the NgiSiger and NgiKwatèla. The resident South Sudanese communities, living in and to the west of Ilemi up to Mount Naita, consist mainly of NgiKòr Toposa, and Nyangatom of the NgiKapùng section (Eulenberger, interview, 2021*). The Daasanach no longer have any permanent presence inside the Ilemi Triangle (Eulenberger 2016; Carr 2017).

19 The organization of the generation-sets is dynamic and varies in time and space, as is recorded in detail in Müller-Dempf (2017). As such, a different number of generation-sets is being reported in different studies. Thus, the system as described here is an estimation and is subject to variations in practice. One generation-set is composed of all the men of the same generation, in the sense that they are the sons of the previous generation-set: a man can never be in the same generation-set as his father (Stites et al. 2007). Within a territorial section, there are usually two generation-sets at a time, a senior and a junior generation-set. After initiation into the junior generation-set, men acquire the privileges of manhood, such as marrying or participating in assemblies. However, after initiation into the senior generation-set, these men gain decision-making power (see Stites et al. 2007; Gebre 2016; Müller-Dempf 2017). Generation-sets are further sub-divided in a complex manner into age-sets, determining seniority within a single generation-set (Gulliver 1952).

20 This is why the Nyangatom and Daasanach are still holding on to customary rights in the Ilemi Triangle, even though they now barely use its pastures (Carr 2017; Eulenberger, interview, 2021).

is still considered wise to discuss access conditions with the adjacent sections to prevent conflict (Eulenberger, interview, 2021). Such resource management agreements for common pastures and water sources are important during droughts, and function as a mechanism to prevent inter-ethnic conflict (Odote 2016).

The Ilemi Triangle is predominantly inhabited by the Turkana. Other communities use Ilemi mostly for seasonal migration. The Toposa live on the western border of the Triangle. They also have a strong base at the Nadapal Valley and around Mount Naita. From these bases, they migrate around Mount Mogilla and into the northwestern pastures of the Triangle for dry season pastures (Mburu n.d.; Eulenberger 2010; Eulenberger 2016; REACH 2020). Both the Nyangatom and the Daasanach had a strong presence in the Ilemi Triangle during the 20th century. Currently, the western Nyangatom are living with the Toposa, whereas the eastern Nyangatom are concentrated in Ethiopia's Upper Kibish Valley and Lower Omo Zone (Eulenberger 2016). Moreover, they have settlements around the Kibish River at the border of the Ilemi Triangle and Ethiopia (Carr 2017). The Daasanach, having lost up to 79 per cent of territory, are today concentrated between the Kibish and Omo rivers in Ethiopia (Gebre 2012; Carr 2017). Only a few mobile pastoralist households continue to send livestock camps to the eastern Ilemi Triangle, at significant risk of having their livestock seized or being attacked by Turkana or Nyangatom (Carr 2017).

Water rights are also managed through customary law. Although open water sources are managed in a similar way to land rights, there are also more exclusive water sources, such as wells (Gulliver 1952). Wells are created by digging holes of approximately three to four metres into dry riverbeds. The person who digs and maintains the well is its owner but is nevertheless expected to grant access to others, even under conditions of scarcity (Gulliver 1951; Eulenberger, interview, 2021).

CHIEFS

Other important political actors in the community are chiefs. The British colonizers introduced chieftainships as a way to govern the areas. Chiefs are legally recognized in South Sudan and Kenya and have official jurisdiction and authority. They are responsible for collecting taxes, enforcing government regulations and seeing to it that local disputes are resolved. They take orders from government officials from various levels, and function as a broker between the lowest administrative level of government and the communities administrative level (*Sudan Open Archive* n.d.; De Vries & Wunder 2017). As such, information often reaches the community through chiefs, making them an important entry point into the community (De Vries & Wunder 2017). Although previously chiefs were elected in South Sudan, since the 2018 Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS), they have been appointed by government personnel, which affects their legitimacy in society (Craze & Ferenc 2021).

FIGURE 3: Nyangatom trek from Omo River villages to Kibish River and Ilemi Triangle settlements. Image by Carr (2017, 147), licensed under CC BY 4.0.

3.3 Peace and conflict

INTER-ETHNIC RELATIONS

As has become clear, relations between the pastoralist communities around Ilemi — paradoxically—have both amicable and hostile characteristics. On the one hand, communities compete over scarce resources and go on cattle raids that risk escalating into inter-ethnic war. On the other hand, they sustain complex relations around the sharing of water and pastures, resulting in situations of cohabitation, especially in times of scarcity (Sagawa 2010a; Carr 2017). There is an important seasonal and climatic dimension to peace and conflict dynamics, with scarcity being linked to both, as discussed in further detail in Section 5.2. Alliances between (sub-)groups may shift rapidly, and conflict and peace can co-exist simultaneously. Moreover, there are numerous inter-ethnic ties between individuals of 'enemy' groups, which feed into these peace and/or conflict dynamics (Sagawa 2010a).

From the late 1970s onwards, the arrival of guns in the hands of civilians has disrupted the power balance between the different groups, with some gaining military advantage over others for significant periods of time (see Sagawa 2010b; Eulenberger, forthcoming). For example, the Toposa are well armed and considered fearless warriors (Müller-Dempf 2015; Small Arms Survey 2020). Moreover, for a period the Daasanach overpowered the Turkana because of their higher population density, leading to their expulsion from the Ilemi Appendix by the Kenyan police, as described in Section 2. Both the proliferation of guns and the expulsion policies have disrupted the original balance between peace and exchange on the one hand and occasional war and raids on the other. As a result, ever-more violent warfare is leading to alienation between groups such as the Nyangatom and Daasanach (Carr 2017; Eulenberger, interview, 2021).

TRADITIONAL SECURITY MECHANISMS

There are various traditional mechanisms that address conflict. The *akiriket* is an important peace-building institution. During *akiriket* assemblies, the elders of a territorial section decide on war and peace. They also function as a sort of "peace envoy," ask for forgiveness on behalf of their community, and discuss dispute settlements in temporary or extended peace agreements (Stites et al. 2007; Odote 2016). These elders are also involved in conflict mitigation, such as the compensation of livestock losses to prevent single incidents spiralling into larger-scale conflict (Odote 2016). After cattle theft, thieves can be tracked by following their footsteps. Local security actors are often involved, as are chiefs, whose authorization is necessary for cattle recovery and payment of compensation. In addition to the elders and chiefs intervening in cases of theft, some communities have introduced police patrols (De Vries & Wunder 2017). Local groups of young men and women have also started initiatives to bring about peace among themselves by reaching peace agreements with youth groups from rival ethnicities, sometimes referred to as "peace caravans". They establish a platform for inter- and intra-community dialogue, to find amicable solutions for the causes of violence. Local PAX partners have in the past also established peace committees at different levels (see De Vries & Wunder 2017).

Individual inter-ethnic ties contribute importantly to peaceful social interaction and relations. Sagawa (2010a) has identified food, economic security around trade or co-residence in the dry season, as well as deeper relations of friendship and gift exchange, family ties through marriage or adoption, as crucial components of peace. After a local war, mutual visits between ethnic groups usually stop for a while, until individuals from either group take the initiative to visit the enemy's land to see friends and hold peace ceremonies. Cross-cutting ties in the form of herding together, visits, or the joint slaughtering of livestock, are therefore integral to the meaning of peace, and face-to-face interactions are an active condition of peace (Sagawa 2010a).

Textbox 2: Cross-border peace dialogues

When cross-border incidents between pastoralist communities escalate into crises, cross-border peace dialogues between local government actors and community leaders take place, at times pushed by civil society organizations (CSOs). The author is in the possession of several cross-border peace resolutions* of the past decade, mainly focusing on peace-building between the Toposa and Turkana. From these documents, a trend can be noted of topics and themes that are recurring and, thus, of importance to the local communities. The following is an overview of these topics and an evaluation by community leaders (2018):

- The support of peacebuilding through community initiatives, such as the peace caravan, and the involvement of women: Although community peace-building structures have been established and women have actively participated, government support thereof was still lacking.

- Sharing and management of resources, e.g., through the establishment of cross-border grazing and peace committees: Cross border grazing and peace committees had been established by 2018, but their effectiveness was questioned. The 2021 IGAD mapping sessions might contribute to the effort of shared resource management.

- Addressing cattle raids by arresting culprits and recovering and returning animals and ensuring compensation for lives lost: In 2018, there was no mechanism for this from the community committee. Governments had made some arrests, but only with the aid and facilitation of community members.

- Investment into economic infrastructure and the movement of goods and people, especially through the establishment of secure livestock markets: Security issues seemed to hinder the Nadapal livestock market, which was not well established at the time of evaluation. As part of the stimulation of the movement of goods and people, the county and state governments are investing in a joint effort to fix the bridge at the Nadapal river section, as decided in a MoU in October 2021 (TCG & EES 2021).

- Social services and social infrastructure for development, such as health facilities and schools: Still deemed necessary, and insufficient, during the evaluation of 2018.

- Addressing criminal, rebel, and SALW activities within Turkana and Toposa community: In 2018, criminality and rebel activity had seemingly increased and more active government action was deemed necessary. Although arrests were already made, information sharing was still lacking.

* Resolutions of cross-border peace reflection meeting held in Kuleu Hotel, Kapoeta town, South Sudan, between the South Sudan, Kenya & Uganda, n.d.; resolutions for Turkana and Toposa leaders meeting held at Trackmark Hotel, Lokichoggio, Kenya on 2 February 2018 (TCG & Kapoeta State 2018); Lodwar Peace Conference held at the Cradle Hotel, Kenya, on 16 November 2015; Main conclusions of the Kapoeta meeting in 2014 (Winter 2019)

4.Government interests in the Ilemi Triangle

Past decades have shown an increased interest in the disputed Ilemi Triangle by various governments that border it. This section maps some of these considerations and the dynamics at play, which may influence the process of border demarcation and might affect the livelihoods of the pastoralist communities.

4.1 Economic interests: Ilemi resources

OIL

The promise of oil deposits inside the Ilemi Triangle has renewed interest in Ilemi from both the Kenyan and South Sudanese governments (Carr 2017). Kenya has investigated this option since 2007, through the exploration of what are known as blocks 11A, 11B and a small part of block 10BA. Although in 2012 oil was discovered further south in Turkana County (around Lokichar in blocks 13T and 10BB), blocks 11A and 11B have not so far proved successful.[21] Nonetheless, both the Kenyan and South Sudanese governments have different blocks open for bidding inside the Ilemi Triangle at the time of writing, December 2021 (GoK, Ministry of Petroleum and Mining n.d.; GoSS Ministry of Petroleum n.d.; *CNBC Africa* 2021).

While the Ilemi's oil potential has yet to be proven, oil exploitation would further be hindered by the absence of an oil pipeline from the area. The Lamu Port-South Sudan-Ethiopia Transport (LAPSSET)[22] project, which was once envisioned to run from Juba to Lamu, has been reduced in scope and is now focusing mainly on Lokichar, further south in Turkana County. In 2012, South Sudan committed to the project by signing an MoU with Kenya for the establishment of a framework for the construction of a Kenya-South Sudan pipeline, financed by South Sudan. However, South Sudan's dedication to the project has never been strong (Browne 2015). It is unlikely that the Ilemi Triangle will be involved in oil exploitation in the near future, although both governments are keeping the option open.

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21 In 2016, a well was dug in the Tarach basin of 11A by CEPSA, 20 kilometres south of the Ilemi border. Against expectations, the drillings were unsuccessful, and the site was abandoned (Eulenberger 2016; Kenya Petroleum Exploration Map, 2021). Engomo-1 drillings by Tullow in block 10BA were also abandoned. Drillings for block 11B were never executed as a result of issues among the oil operators Adamantine and Bowleven as well as between the oil operators and the local population (Eulenberger 2016).

22 The original idea was to establish a new port and merchant refinery at Lamu, on the Kenyan coast, to which an oil pipeline would run from Juba and Addis Ababa. These pipelines would also be accompanied by railways for cargo and passenger trains, highways and internet fibre, resulting in a 500 metre-wide corridor (Browne 2015; Anami 2021). Moreover, resorts and airports were to be established at Lake Turkana, Lamu and Isiolo (Browne 2015; LCDA n.d.).

The opening of oil blocks in Ilemi is mainly of political and social significance, as it illustrates a maintained claim and interest on the Ilemi Triangle on the part of both governments. It also affects perceptions on the ground, in the sense that people believe Ilemi is rich in oil and that this is the main interest of the governments. Meanwhile, the potential exploration and exploitation of the Ilemi Triangle by the Kenyan and South Sudanese governments is mutually exclusive and, as such, a source of potential conflict between the two governments in the process of border demarcation.

RENEWABLE RESOURCES

The Ilemi Triangle has great potential in terms of renewable energy sources, especially an abundance of sun and wind, and — as discovered recently — underground water. Although these resources offer potential to both governments, the Kenyan government is the only one that has publicly explored them. For instance, a large aquifer was discovered in Turkana County under the Lotìkipi plain in 2013, which ranges into the Ilemi Triangle. Initially, it was hoped that this aquifer would be able to provide Kenya with water for 70 years, relieving the Turkana population of water scarcity and providing a source for irrigation projects to boost agriculture, food security and employment in the region (Avery 2014; Gitonga 2020; Takouleu 2020a). However, testing of the water quality has shown it to be ten times too salty for the rural and community water supply (Avery 2014). Moreover, the expected groundwater recharge in such a dry area is weak, affecting the sustainability of water abstraction (Avery 2014). In response to this, the County Government has looked into desalination of the water through public-private partnerships (PPPs), with a desalination plant planned at Nanam, approximately 40 kilometres south of the Ilemi Triangle. However, this is a costly endeavour, both in terms of money and energy, and it would not solve the problem of replenishment of the water basin (Takouleu 2020b; Mulyungi 2021).

The renewable resources in the Ilemi area are also of interest to the Turkana County Government, especially because of its high levels of daily solar irradiance and wind speeds (TCG 2016). The wider Omo-Turkana and Ateker region has already seen some investment into hydro, wind and solar power (Eulenberger 2019). Indeed, the County Integrated Development Plan for 2018–2022 identifies renewable energy development as a priority, but also acknowledges that the sector is still in need of crucial improvements to be accessible for industrialization' These include, "developing a coherent policy framework, awareness raising and information exchange, robust resources data, enhanced technical skills, and energy storage" (TCG 2018b, 58). Other challenges are low per capita energy consumption in Turkana and poor transmission and distribution infrastructure (TCG 2018b). Nevertheless, it is one of the policy objectives for forthcoming years.

LIVESTOCK POTENTIAL

The Ilemi Triangle also offers livestock potential and Kenya has developed plans for a Lotìkipi National Game Reserve to promote tourism. The reserve was gazetted in 2015, with two rounds of community sensitization having taken place (TCG 2015), but at the time of writing it had not been established. Nevertheless, several conservancies are being developed through PPP initiatives involving local communities (Ojwang et al. 2017). The government has, however, stated that it will protect access to dry-season pastures (TCG 2020).

As a result of population growth, increasing incomes and changing eating habits, the demand for beef and milk in Africa is expected to quadruple by 2050. As a result, livestock offers important economic potential, with markets providing a major opportunity for economic growth (FAO 2017; Assefa & Mbugua 2019). The Kenyan government seems to appreciate this potential as it has initiated the development of a Livestock Master Plan (Kimani 2021). Kenya is mainly an

agriculture-based economy, representing 25 per cent of its GDP (Waithaka 2018). It is estimated that the livestock sector contributes approximately 12 per cent to the country's GDP and 42 per cent to the agricultural GDP[23] (Kimani 2021). South Sudan, on the other hand, has thus far relied mostly on its oil exploitation in other blocks, while the agrarian and pastoral economies sustain a big part of its population (International Crisis Group 2021). After the CPA in 2005, livestock markets saw an important increase, with South Sudan both importing and exporting cattle. Oil revenues caused a sharp increase in the price of livestock (Catley 2018). An IGAD study estimated that the livestock sector in South Sudan contributed around US$3 billion to South Sudan's GDP in 2015 (*ibid*).[24] The civil wars that started in 2013 caused cattle production losses of more than US$1 billion per year (*ibid*), which affected pastoralist communities. –

Despite this potential, there are no formal livestock markets inside the Ilemi Triangle. Livestock trade happens in an informal manner, whenever the opportunity arises. The only place within the Triangle where livestock trade is a bit more formal is Kaikor. It is in the urban centres, such as Lodwar, that there are fixed dates and places for the exchange of animals. A livestock market was supposed to have been set up in Nadapal, but by 2018 had not been successful, partly due to insecurity in the region and a lack of regulation (TCG & Kapoeta State 2018). There is one slaughterhouse in Turkana County, in Lokichoggio, with the main demand for meat coming from urban centres like Lodwar, Lokichoggio and, especially, Kakuma – where there is a big refugee population, resulting in one of the biggest market centers in the area (Matete & Shumba 2015). Current structural barriers to livestock marketing in Turkana County include the absence of and long distances to markets, high transport costs, issues around raiding and insecurity, low prices, and more (*ibid*). Interestingly, and in contrast to other economic opportunities, investment in Ilemi's livestock market potential could be of economic interest to both governments, and is not mutually exclusive. Cross-border markets can benefit governments through tax revenues as well as better long-term developmental outcomes (Brenton & Soprano 2018).

4.2 Political interests

The national governments of Kenya and South Sudan, and to a lesser extent Ethiopia, all relate differently to their constituents in the borderlands around the Ilemi Triangle. And while the Turkana have long been marginalized by the Kenyan government, they are nonetheless the people that were historically governed more than the other pastoralist communities in the area (Eulenberger 2019). With the devolution of power in Kenya from 2010 onwards, the Turkana constituency has grown in importance. Turkana County has received major financial benefits, since all revenues are to be shared equally between the national and county governments (Schilling et al. 2016). An additional motivation to protect the interests of the Turkana is the discovery of valuable resources in the county (such as the aquifer and, possibly, oil). After all, the Turkana can easily disrupt government plans related to resource exploitation, as has already happened in the past (Eulenberger, interview, 2021). The Kenyan government has a renewed interest in keeping the Turkana population satisfied, and in maintaining their claim on the Ilemi Triangle (Waithaka 2018).

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23 However, past research has shown that livestock production is underrepresented in Kenya's GDP. In 2009, the livestock contribution to Kenya's GDP was more than 2.5 times higher than its initial estimation (ICPALD 2013).

24 This is an estimation that includes the informal market (Catley 2018).

The South Sudanese government has not yet come round to governing the area, either centrally or in a decentralized fashion. The Toposa and Nyangatom communities, who hold strong military power through political and military connections in Juba, are those with the most interests in the Ilemi Triangle. Yet South Sudan's civil war and the presence of opposition militias in the area has aroused interest from the South Sudanese government, which is concerned not to cause political confrontation with the Toposa and wants to prevent any uprising in the area (Eulenberger 2016; Small Arms Survey 2020). The long-term governor of Eastern Equatoria State is Toposa (Small Arms Survey 2020), and a key actor in maintaining security in the border area with Kenya and Ethiopia. The governor also plays in important part in the implementation of the MoU between South Sudan and Kenya (Small Arms Survey 2020). It is likely that the long-standing relationships between certain individuals from the Toposa community and the centre of government in Juba influence South Sudan's potential claims on the Ilemi Triangle, since ignoring the interests of the Toposa community may have political consequences internally.

In articles about the Ilemi Triangle, Ethiopia is often mentioned as a party of interest (see, for instance, Mburu 2003; Johannes, Zulu & Kalipeni 2015; Eulenberger et al. 2018; Waithaka 2018; Kiban 2019). However, Ethiopia has officially recognized that it has no claims on the Ilemi Triangle on multiple occasions, including the 1972 Exchange of Notes (El-Ghaazi 1975). Also, in relation to the recent MoU of South Sudan and Kenya, Ethiopia has not made any public statements about claiming the Ilemi Triangle. Nevertheless, it is rumoured that Ethiopia renewed its claims in 2016, based on the presence of the Nyangatom and Daasanach, who are considered indigenous to part of the Ilemi Triangle (Eulenberger, forthcoming). However, these claims have not been made public, and suggestions that Ethiopia is interested in the area are thus speculative. Some suggest that Ethiopia is interested in Ilemi for the relocation of indigenous communities from elsewhere in the country, who are losing their native lands due to agricultural investments. For instance, Ethiopia has invested in irrigation systems, such as Gibe III, IV and IV, as well as in large-scale private commercial and government agribusiness plantations, such as sugar cane plantations (Johannes, Zulu & Kalipeni 2015; Eulenberger 2016; Carr 2017; Eulenberger et al. 2018).

In addition to national interests and the steps towards border demarcations, there is also the 2020 IGAD Protocol on Transhumance, a noteworthy regional initiative that has mobilized communities. The Intergovernmental Authority on Development (IGAD) is an intergovernmental organization that consists of Sudan, South Sudan, Kenya, Uganda, Ethiopia, Somalia, Eritrea and Djibouti, and aims to achieve peace, prosperity and regional integration (IGAD n.d.). The IGAD Centre for Pastoral Areas and Livestock Development (ICPALD) promotes pastoralist resilience (IGAD 2020). The IGAD Protocol on Transhumance — which was endorsed by all member states in February 2020 — proposes to allow cross-border mobility and state investments in pastoral areas (IGAD 2020). This protocol is made up of several articles, of which the most important are:

1.   The identification and mapping of stock routes and resources therein, designating them as transhumance corridors, which the pastoralists must then follow.

2.   The introduction of the IGAD Transhumance Certificate (ITC), which designates the itinerary, the composition of the herd, the sale and purchase of livestock, and which registers herd diseases. The ITC must be accompanied by identification documents.

3. The access of pastoralists to basic services in the host country, and their protection in terms of fundamental rights. As part of this, they are not allowed to cross the border with arms.

4. The restriction of the timing of border crossings as determined by the member states.

5. The investment in border communities and local institutions promoting peaceful coexistence (IGAD 2020).

Whereas the protocol on the one hand aims to "enable easy, free and safe movement of pastoralists across borders of countries in the region in search of water and pasture" (TCG 2021), it could also be interpreted as a restrictive policy that limits the free cross-border movement of pastoralist communities. As part of this process, participatory mapping sessions were organized by the ICPALD in Lodwar on 15 and 16 November 2021 to identify transhumance corridors between South Sudan, Kenya and Ethiopia. The sessions were attended by community participants from the three countries, and Kenyan and South Sudanese government officials also participated. The aim was to develop draft maps on spatial distribution of transhumance corridors, including their associated features, resources and social services (Turkana Governor's Press Service 2021; interview, 2021). Although the meeting was not directly related to the border demarcation process, there is an interesting overlap in terms of getting an idea of the communities' interests and worries. A more formalized regulation of access would be of significance nonetheless, as it would affect the nature of the border as experienced by pastoralists in the future.

Despite the possible competing interests described above, both South Sudan and Kenya have an interest in maintaining friendly relations. South Sudan and its land-locked economy especially needs Kenya as a valuable political ally to the government in Juba. The need to maintain friendly relations at the highest level may explain why the border issue remains largely unaddressed, despite the MoU.

Figure 4: Goats drinking at Lake Turkana

5. Risks to and opportunities for pastoralist livelihoods

This section seeks to situate the pastoralist interests and border demarcation process within the broader context of regional and national government interests and global dynamics, such as climate change and the COVID-19 pandemic. As such, the risks and opportunities to pastoralist livelihoods are discussed here.

5.1 Scarcity and violence

Scarcity of resources, especially viable pastures and water, is an increasing problem as a result of climate change. According to Erot (2021), communities in the Ilemi Triangle experience less rainfall and floods, and more frequent and longer periods of drought. Because of this, grass is of poorer quality and less available, and water sources are drying up, affecting the ability to graze, cultivate or fish (*ibid*). Drought in and around the Ilemi Triangle is further exacerbated by the construction of the Gibe III, IV, and V dams along the Omo River in Ethiopia, which affects the water levels of Lake Turkana and accompanying flood levels. The Omo River is responsible for 90 per cent of the water of Lake Turkana, as well as for the replenishment of aquifers. Moreover, the Gibe dams cause an artificial regime of water release. The predictions are that downstream flow will be reduced by 60 to 70 per cent, lowering the Lake Turkana water level from 30 to 8 metres, eventually reducing it to two small lakes (Johannes, Zulu & Kalipeni 2015; Carr 2017; Winter 2019). This will have far-reaching implications for the ecosystem around Lake Turkana, as productive floodplains and regional biodiversity are destroyed and overall humidity decreases (Hodbod et al. 2019; Eulenberger 2019).

As well as the decrease in available resources, another problem that may arise in the future is access to those resources due to political choices and policies. One past example is the colonial expulsion policy that pushed the Daasanach and Nyangatom out of the Ilemi Appendix and still keeps the Daasanach out today (as discussed in Section 2.2). The exploitation of subsoil or renewable energy sources may in particular affect access conditions, as may the nature of the future border. To ensure access by all pastoralist communities, it is important that the demarcated border remains soft in order to facilitate cross-border migration.

Research has shown that inhabitants of the Ilemi Triangle regard scarcity as the highest risk factor for violence (Odote 2016). Scarcity is related to conflict in a complex and paradoxical manner as it stimulates both competition and sharing. The dry season is when pastoralists start migrating nearer to each other and accessing the same scarce seasonal pastures. On the one hand, this poses the risk of increased competition and conflict. On the other hand, however, pastoralist communities are dependent on each other for access to and the sharing of resources during the dry season. This makes peace more necessary and feasible (Eulenberger 2010; Odote 2016). Moreover, for a variety of reasons, cattle raids are more likely during the rainy season than during the dry season. First, the availability of pastures means that warriors can drive cattle away over longer distances, without the risk of thirst and exhaustion. Second, peace is less necessary, as an abundance of pastures lowers inter-ethnic dependency (Eulenberger 2010). Third, during the rainy season, warriors are free from their daily grazing chores, and thus become idle and start planning raids (Odote 2016). As such, inter-ethnic relations are interwoven with climatic conditions. Despite dry-season inter-ethnic dependency, reports of violent incidents between tribes are frequent (see for instance Carr 2017; Jitendra 2017; Nicholas 2018). Such resource conflicts have become increasingly violent due to the proliferation of guns and the militarization of raiding. With the increasing scarcity of resources due to climate change and government policies, inter-ethnic violence is expected to escalate further (Carr 2017).

5.2 The dynamics of local politics

The influx of guns and distribution of ammunition interacts in part with the dynamics of local politics, which frequently play populist tunes. Politicians, in their quest for influence among their constituencies, use rhetoric and measures that play into people's emotions and desires, often against a specific group (Eulenberger 2009; Eulenberger 2016). In the case of Ilemi, politicians use inter-ethnic animosities and grievances around raiding and the use of pasture and water to entrench leadership (LOPEO 2021). They do this through talking about other communities, using inflammatory remarks, and threatening with actions in response to wrongdoings to their electorate (ibid). In some cases, this has gone as far as providing ammunition and arms to the pastoralist communities, as was the case during the 2009–10 Nadapal clashes (Simonse 2011).

There is an important territorial element to this that relates directly to the absence of a border: inter-ethnic tensions have been used politically for territorial gain. In the name of acquiring grazing lands for pastoralist livestock, politicians have stimulated cattle-raids to move the administrative boundaries by expanding grazing boundaries (De Vries & Wunder 2017). As such, governments have exploited the pastoralists' need for access to the Ilemi pastures by supplying them with arms, using them as 'proxy forces' for their own interests (Carr 2017). This dynamic has been going on since colonial times, as seen in Section 2.2. As long as the border remains undetermined, this violent dynamic will continue (De Vries & Wunder 2017; interview, 2021).

In addition to these populist tendencies, there is a lack of security and service provision by local government actors, further facilitating violence. On the Kenyan side, security remains limited and unreliable (De Vries & Wunder 2017; Eulenberger et al. 2018). The Kenya Police Service is responsible for providing security and the Kenyan Defence Forces are in charge of protecting the international border, making both responsible in cases of cross-border raids. Nevertheless, there is still confusion about tasks and responsibility (De Vries & Wunder 2017). In the more remote areas, the National Police Reservists — consisting of trained pastoralist community members from the region — are deployed to complement the Kenya Police Service. Because of their experience as members of the

local pastoralist communities and their experience in combat, they are the most efficient in providing security and protecting the pastoralist community. On the other hand, they are less reliable in terms of following orders and are known to share ammunition with pastoralists, albeit to a limited extent (Eulenberger, interview, 2021). The Kenyan police and army have taken part in cross-border meetings and have stated their ambition to improve (De Vries & Wunder 2017). On the South Sudanese side, security provision is weak. Available state security agencies are no match for warrior cattle herders. They are also demotivated by irregular or non-payment of salaries and very long periods of service. The relationship between security agents and citizens is tense due to the history of civil war (ibid). Another issue in the borderlands is the co-optation of traditional security structures into government structures. It is argued that efficient border security and management requires the involvement of local communities in security structures (Eaton 2010; Eulenberger et al. 2018).

Insecurity around the border is one of the reasons for the lack of investment in service provision and development in the Ilemi Triangle, as acknowledged by the Governor of Eastern Equatoria State (Waithaka 2018; Gitonga 2019b; World Bank 2020). One interviewee also stated that once the border is demarcated, the area can start to be developed (interview, 2021). If security is absent and it is unclear which state governs where, if at all, economic investments in the area will remain limited as it is unlikely that big investors will come into such borderland regions (Simonse 2011; World Bank 2020). Nevertheless, economic conditions can improve through the emergence of cross-border markets, which is seen as an opportunity for pastoralist survival (Simonse 2011).

5.3 Risks and opportunities of the market

Another dynamic affecting pastoralist livelihoods is the commercialization of cattle and the resulting dependence of pastoralist communities on livestock markets. Due to the increased global demand for meat, the trade of livestock has become a very profitable business (LOPEO 2021). This provides an incentive to raid cattle to sell on livestock markets or directly to slaughterhouses, where animals are traded for guns or money (De Vries & Wunder 2017; LOPEO 2021). This potential gain has made raids increasingly violent and large scale, and both inter- and intra-ethnic. It has created notorious warriors, with some cases of people becoming millionaires overnight at the expense of families who are utterly impoverished, or even killed (LOPEO 2021). The commercialization of cattle has thus changed the nature of cattle raiding, making it increasingly for commercial, individual gain (Nicholas 2018).

Incorporation into markets also makes pastoralist communities increasingly vulnerable to external pressures, such as the economic crisis in South Sudan and the global COVID-19 pandemic. The civil war in South Sudan has caused inflation and devaluation of the local currency. As a result, the value of livestock has decreased, especially in relation to the value of cereals. Because of this, Toposa men had to sell more livestock and Toposa women had to sell more milk to secure the same return as they did before the civil war. Another reason pastoralists felt the urge to sell more livestock during the civil war was out of fear of being raided for their cattle, or because their cattle were becoming thinner because they were unable to graze freely (Catley 2018; Cullis 2021). As a result, the demand for livestock among pastoralists was higher. The COVID-19 pandemic and accompanying restrictions have also affected pastoralist livelihoods. In Kenya, for instance, many livestock markets were closed by the government to contain the spread of the virus. Moreover, travel restrictions and the curfew have curtailed pastoralist movement and the ability to reach markets (Hassan 2020).

Despite these risks, livestock markets offer benefits to both the pastoralist communities, as discussed in Section 3, and the governments, as discussed in Section 4. This win-win situation can be a reason for investments in, for example, the production of drought fodder to increase pastoralist efficiency and sorghum for community consumption. Such investments would at the same time function as adaptation to the effects of climate change and Gibe III (Eulenberger 2016). They would be in line with Article II of the 2019 MoU, which states that "the Parties shall safeguard joint bilateral and regional projects and programmes for the social and economic benefit and well-being of their peoples" (GoK & GoSS 2019). Moreover, they can be a reason for investment in security provision by the respective governments. Lastly, with growing population pressure threatening the subsistence of pastoralist communities, investment in commercial activity increases the human carrying capacity of the rangelands, meaning that more people can be supported through the pastoralist production system (Dido 2019). It is important to note the risk of overgrazing, which can be destructive to the ecosystem (Niamir-Fuller et al. 2012). However, marketing livestock is seen as a legitimate way to address overgrazing, as selling and buying livestock helps pastoralists to adapt their herd size to ecological conditions, i.e., destocking in times of drought and restocking in times of rain. This has proved effective in Ethiopia (Tessema 2012).

Conclusion

This report provides a start to mapping pastoralists' interests and calls for their voices to be included in the border demarcation process. It has shown the different meaning the Ilemi Triangle has from a pastoralist perspective as compared with a national or government perspective. To the Toposa, Turkana, Nyangatom and Daasanach, the Ilemi Triangle is a source of water and pastures, which they rely on for their livelihoods in the climate-insecure drylands. It is also a place of communication and exchange with other territorial sections and tribes. The boundaries between the communities are flexible and resources are often shared, as guided by customary law. To the governments of South Sudan and Kenya, sovereignty is attached to territory marked with a clear line. Because both governments have claimed the same piece of land, the border has remained contested for decades. The lack of clarity about the status of the border has also made the borderland's inhabitants vulnerable. For instance, it resulted in the pastoralist communities being used as proxy forces or excluded from Ilemi's resources. These bigger national dynamics have increased the vulnerability of certain groups and exacerbated inter-ethnic tensions. The absence of services and lack of security provision further plays into these local dynamics as cattle raids become more violent with the proliferation of guns, the commercialization of cattle, and the increased impact of climate change. While the populations have raised their security concerns and the absence of service provision in several cross-border peace dialogues, this has not been adequately addressed by the governments.

The disputed status of the Ilemi Triangle may have advantages for the pastoralists who can access the area freely. But the lack of a clearly-defined border between South Sudan and Kenya contributes to the underdevelopment and insecurity of the borderlands. Whether its demarcation will lead to peace is partly dependent on how this border is shaped and how free adjacent communities are to cross into neighbouring territory. The recent history of Abyei shows that if principles of sovereignty come with exclusive access for national citizens, it is a recipe for conflict. In addition to just determining the location of the border, it is important to determine who has access and with what purpose. It is paramount that communities are part of the demarcation process and consulted about all aspects that may affect them. Whether the demarcation of the border brings peace will furthermore depend on the provision of security and services.

With the aim of putting the communities' interests at the centre or the border demarcation process, PAX suggests that the following considerations be taken into account.

CONSIDERATIONS FOR GOVERNMENTS

♦ **Start from a community perspective:** PAX suggests that government actors consider taking into account perspectives and mechanisms that bear legitimacy among pastoralist communities. The participation of communities should be at the level of involvement in decision making. Traditional political structures, such as the *akiriket* and chiefs, are to be part of this process.

♦ **Flexibility of pastoralist movement:** PAX suggests allowing access to pastures in the Ilemi Triangle for the communities who depend on them. Governments need to be extremely cautious in restricting the flexibility of pastoralist movement, in line with their commitment to maintain the sanctity of local communities as per the MoU.

♦ **Enhance security provision:** Security provision should be accompanied by an effort to address the root causes of violence, including a conducive environment for voluntary disarmament. Effective security provision can generate benefits to both governments and the pastoralist communities. Effective security provision requires coordination with, and the support of, local security mechanisms, such as those for cattle recovery, as has been earlier proposed in cross-border peace dialogues.

♦ **Invest in the livestock potential of the Ilemi Triangle:** There is potential for developing livestock markets. Government investment into a cross-border livestock trade network would offer economic opportunities to the communities and mutual benefits to all states involved through tax revenues. Such investments are in line with Article II of the MoU (GoK & GoSS 2019, 3). A livestock market would also require investments in transportation routes and fodder production, which would also serve as way to mitigate overgrazing due to market offtake.

♦ **Co-operate in a cross-border approach:** Because of the cross-border dimension of the lives of pastoralists, PAX suggests that government policies that affect these communities take this cross-border dimension into account. Clearly, this would require consultation and cooperation between the different governments.

CONSIDERATIONS FOR CIVIL SOCIETY ORGANIZATIONS

♦ **Support the process of community sensitization:** Community sensitization is part of the agreed border demarcation process. Communities need to be informed, consulted and involved during that process. PAX suggests that local civil society actors develop programmes to inform and advise communities about their role in the process.

♦ **Conduct research:** This document provides only a broad brush map of community interests. PAX suggests additional empirical field research to be able to inform and advise communities well. Such additional research can serve as a complementary source in the border demarcation process, with the aim to take the voices of the pastoralist communities fully into account.

CONSIDERATIONS FOR THE AFRICAN UNION

♦ **Monitor the implementation of the African Union Border Programme (AUBP):** The Commission of the AU, which is responsible for the implementation and coordination of the AUBP, should closely monitor the border delineation and demarcation process. As maintaining the sanctity and cohesion of communities is a guiding principle of the AUBP, as per Article II of the MoU, it is important to oversee the level and quality of community participation.

Resources

As some interviewees wanted to remain anonymous, PAX has decided to anonymize all stakeholder interviews.

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Annex 1:
Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING BETWEEN THE REPUBLIC OF KENYA AND THE REPUBLIC OF SOUTH SUDAN ON BOUNDARY DELIMITATION AND DEMARCATION

Article I: Definitions

Border: means a region, zone, or territory straddling a boundary of an area adjacent to a boundary;

Boundary: means the line that marks the physical limits of a state's territory and sovereignty;

Delimitation: means a legal description of a boundary in a text or map;

Delineation: means a precise description and explanation of a demarcated boundary in detail;

Demarcation: means a process of physically marking of a boundary on the ground using pillars and production of the boundary maps thereafter;

Joint Council of Ministers: means the Ministers/Cabinet Secretaries established under Article III of this Memorandum of Understanding;

Joint Technical Committee: means a team of experts formed under Article III of this Memorandum of Understanding;

Joint Demarcation Committee: is a sub-committee of the Joint Technical Committee responsible of the demarcation of the Kenya-South Sudan international boundary;

Joint Community Committee: is a sub-committee of the Joint Technical Committee;

Parties: means the Republic of South Sudan and the Republic of Kenya;

Straddling: means villages, communities, lands, waters, and other natural resources spanning across the common border;

Treaty: means a binding agreement entered into by the Parties and governed by international law;

Tri-Point: means a point where the boundaries of three states meet.

Article II: Guiding Principles

1.   The delimitation and demarcation process will be guided by the principles of the African Union Border Program (AUBP), which seek to maintain the sanctity and cohesion of communities and to foster peaceful co-existence between neighbours.

2.   The Tri-Point will be determined by the countries concerned upon completion of the delimitation and demarcation process.

3.   Upon completion of the boundary delimitation and demarcation, the Parties shall agree on a framework for maintenance of the boundary and the management of the border.

4.   The Parties undertake to share information and other resources in order to facilitate the process.

5.   The Parties shall safeguard joint bilateral and regional projects and programmes for the social and economic benefit and well being of their peoples.

6.   The Parties shall be guided by diplomatic and political good will in resoling issues that may arise in the implementation of the MOU.

Article III: Institutional Framework for Delimitation and Demarcation

The delimitation and demarcation process shall be implemented through the Joint Council of Ministers and the Joint Technical Committee.

1.   **Joint Council of Ministers**
       The Joint Council of Ministers (JCM) shall comprise Ministers/Cabinet Secretaries from the two States responsible for international boundaries. The Mandate of the JCM shall be to:

       a)   Formulate policies, provide guidance and oversight on the delimitation, demarcation and ratification process.
       b)   Facilitate mobilization of resources for the delimitation and demarcation process.
       c)   Consider reports of the Joint Technical Committee (JTC) and give guidance for further action.
       d)   Consider and adopt the draft boundary treaty.

2.   **Joint Technical Committee (JTC)**
       a.   The Joint Technical Committee (JTC) shall comprise officials duly appointed by their respective Governments and shall not exceed Eighteen (18) members from each Party.
       b.   The JTC shall draw rules of procedures to govern its conduct.
       c.   The mandate of the JTC shall be to undertake the delimitation and demarcation of the common international boundary.
       d.   In exercise of its mandate, the JTC shall:
       i.   Draft the boundary treaty and submit it to the JCM for consideration and approval.
       ii.   Submit periodic and other reports for consideration and approval by the JCM.
       iii.   Consult and collaborate with the border community leaders, civil administrators and other relevant experts on any issue regarding the boundary.

iv.   Draft guidelines, comprehensive plans, including the budget, for its joint activities consistent with the provisions of this MOU.

e.   The JCE shall establish such other additional sub-committees, as it may deem necessary.

3.   **Joint Demarcation Committee**

a.   The Joint Demarcation Committee (JDC) is hereby established as a sub-committee of the JTC.

b.   The mandate of the JDC shall be to demarcate the Kenya-South Sudan international boundary.

c.   The JDC shall comprise an equal number of officials.

d.   In exercise of its mandate the JDC shall:

i.   Develop its works plans, budgets, programmes and submit to the JTC for approval.

ii.   Erect on the ground boundary pillars and prepare boundary maps; and

iii.   Use internationally acceptable methods for the boundary demarcation.

4.   **Joint Community Committee**
The Joint Community Committee (JCC) is established as a sub-committee of the JTC, which shall:'

a.   Sensitize local communities along the border on the delimitation and demarcation process.

b.   Facilitate the operations of the JTC and JDC.

Article IV: Meetings

1.   The JCM, JTC and the sub-committees shall hold meetings on a rotational basis on mutually agreed dates.

2.   Either Party may request for a meeting outside the scheduled meeting by sending the other Party a notice of 14 days, or such other period depending on the urgency of the matter.

3.   The working language of the JCM, JTC and the sub-committees shall be the English language

4.   The JCM, JTC and the sub-committees shall be co-chaired by the Parties

Article V: Delimitation and Demarcation Process
The Parties agree that the boundary delimitation and demarcation process shall be carried out in the following phases:

a.   The signing of the MOU;

b.   Delimitation of the boundary;

c.   Demarcation of the boundary;

d.   Delineation and

e.   Signature and Ratification of the boundary treaty.

Article VI: Financial and Technical Provisions

1. All costs incurred for the venue of the meetings of the JCM, JTC or its sub-committees shall be borne by the host Party. Each Party shall however bear the travel and subsistence expenses for its representatives.
2. The Parties shall mobilize, commit and avail resources necessary for the delimitation and demarcation exercise.
3. The Parties may, on the recommendation of the JCM, seek or accept from any other entity, advisory, technical, financial or other assistance to support the delimitation and demarcation exercise.
4. A Party may seek expertise of the AUBP or any other reputable institution in the areas of facilitation, capacity building, training and research in the negotiation process, as entailed in the phases outlined in Article V above.

Article VII: Settlement of Disputes

1. The Parties shall employ their best efforts to reach consensus in the demarcation and delimitation process as stipulated in the guiding principles contained in Article II above.
2. In the event that there may be outstanding issues that cannot be resolved by the JTC, the JTC shall submit a report to the JCM. The report should contain, *inter alia,* issues not agreed on and recommendations for consideration.
3. In the event that there may be outstanding issues that cannot be resolved by the JCM, the JCM shall submit a report to the Heads of State. The report should contain, *inter alia,* issues not agreed on and recommendations for consideration.
4. In the event the Heads of State cannot amicably resolve the dispute, the Parties shall use mediation and conciliation processes within the AU Peace and Security Architecture.
5. In the event that the AU Peace and Security Architecture fails to resolve the difference, the Parties may report to international arbitration.

Article VIII: Amendment

This MOU may be amended by mutual consent of the Parties through diplomatic channels.

Article IX: Entry into Force

This MOU shall enter into force upon signature by the Parties.

Article X: Termination

This MOU shall remain in force until it is terminated by the conclusion of all the processes provided in Article V of this MOU.

Article XI: Further agreements

Without prejudice to the provisions of this MOU, the Parties may conclude further agreements for the better management and implementation of the provisions of this MOU.

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